

114.3 CMR: DIVISION OF HEALTH CARE FINANCE AND POLICY

114.3 CMR 45.00: TEMPORARY NURSING SERVICES

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45.01: General Purpose

- (1) Scope and Purpose. 114.3 CMR 45.00 governs the rates paid by health care providers to temporary nursing agencies registered with the Department of Public Health.
- (2) Authority. 114.3 CMR 45.00 is adopted pursuant to M.G.L. c. 118G, § 7 and M.G.L. c. 111, § 72Y.
- (3) Effective Date. 114.3 CMR 45.00 is effective December 1, 2012.

45.02: Definitions

Department. The Department of Public Health established under M.G.L. c. 111.

Division. The Division of Health Care Finance and Policy established under M.G.L. c. 118G.

Fixed-Term Travel Employees. Employees who (1) work exclusively at a particular health care facility for a specified period of at least 90 days pursuant to a contract between the provider and a Temporary Nursing Agency; (2) must relocate a distance of at least 200 miles and establish a temporary residence for the contract term to work at the contracting provider; and (3) incur expenses for temporary accommodations paid by the Agency. Providers are required to maintain documentation concerning fixed-term travel employees for a period of two years following the expiration of the contract.

Health Service Area (HSA). Regional boundaries created for the purposes of health care planning pursuant to P.L. 93-641. A list of the municipalities in each HSA is included in an appendix to 114.3 CMR 45.00.

Hospital. A hospital licensed under M.G.L. c. 111, § 51, including but not limited to, an acute hospital, chronic hospital, rehabilitation hospital, and psychiatric hospital.

Medical Personnel. Registered nurses, licensed practical nurses, and certified nursing assistants, associated with a Temporary Nursing Agency. All such medical personnel are employees unless the Agency demonstrates that they should be treated as independent contractors.

Nursing Facility. A nursing or convalescent home; an infirmary maintained in a town; a charitable home for the aged, as defined in M.G.L. c. 111, § 71; or a Nursing Facility operating under a hospital license issued by the Department pursuant to M.G.L. c. 111, and certified by the Department for participation in the State Medical Assistance Program. It includes facilities that operate a licensed residential care unit within the Nursing Facility.

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Overtime. Per hour of care in excess of 40 hours per week or 8 hours per day, as defined in an agreement between the Health Care Facility and the Agency.

Price. The total amount per hour charged by the Agency for a specific service to the Provider.

Registered Nurse, Specialist. A Registered Nurse with advanced nursing knowledge and clinical skills acquired through an appropriate nursing education program in accordance with 244 CMR 4.00, including but not limited to an Operating Room Nurse, Clinical Nurse Specialist, Intensive Care Unit Nurse, Coronary Care Unit Nurse, and Infection Control Nurse.

Related Party. An individual or organization associated or affiliated with, or which has control of, or is controlled by, the Agency; or is related to the Agency or any director, stockholder, trustee, partner or administrator of the Agency by common ownership or control or in a manner specified in sections 267(b) and (c) of the Internal Revenue Code of 1954 as amended provided, however, that 10% is the operative factor as set out in sections 267(b) (2) and (3). Related individuals include spouses, parents, children, spouses of children, grandchildren, siblings, fathers-in-law, mothers-in-law, brothers-in-law, and sisters-in-law.

Temporary Nursing Agency (Agency). An Agency is defined in accordance with the provisions of 105 CMR 157.020. It includes any person, firm, corporation, partnership, or association registered with the Department that is engaged for hire in the business of procuring or providing temporary employment in health care facilities for medical personnel, referred to as "nursing pools" in M.G.L. c. 111, § 72Y. Each separate location of the business of an Agency registered with the Department is an Agency. An Agency shall not include a medical personnel staff arrangement set up by a Health Care Facility solely for its own use in which the only costs are the salaries paid to such medical personnel; or an individual who engages only in providing his or her own services on a temporary basis to health care facilities.

45.03: Rate Provisions

(1) General. All prices are per hour. An Agency's Price for a service provided to a Nursing Facility or Hospital may not exceed the Maximum Price set forth in 114.3 CMR 45.03(2) or (3). Rates vary by Health Service Area (HSA). The location of the Nursing Facility or Hospital determines the Maximum Price that may be charged.

(a) Holidays. Rates for Holidays may not exceed 150% of the Maximum Prices set forth in 114.3 CMR 45.03(2) or (3). An Agency and the purchasing Nursing Facility or Hospital may define the specific times for each shift and the days that constitute holidays in the written agreement for services as required by 105 CMR 157.220.

(b) Overtime. An Agency and a Nursing Facility or Hospital may agree to an overtime differential to be added to a Maximum Service Price to compensate an employee for Overtime hours worked.

(c) Exemptions. Fixed-term Travel Employees are not subject to the Maximum Prices set forth in 114.3 CMR 45.03.

(d) Twelve-hour shift. An Agency and a Nursing Facility or Hospital may agree to a single price per hour for services provided during a twelve-hour shift. The price per hour cannot exceed the weighted average of the combined Maximum Prices for the applicable shifts as set forth in 114.3 CMR 45.03(2) or (3). For example, an RN in HSA 1 providing weekday services at a Nursing Facility from 7 a.m. to 7 p.m. could be billed at a single rate of \$52.48, using 8 hours at \$51.96 and 4 hours at \$53.52 ($8 \times \$51.96 + 4 \times \$53.52 = \$615.60/12 = \52.48).

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(2) Maximum Prices, Nursing Facilities.

(a) Registered Nurse (RN) – Nursing Facility

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$51.96	\$52.12	\$54.13	\$57.03	\$54.57	\$53.46
Weekday 2	\$53.52	\$53.67	\$55.69	\$58.59	\$56.12	\$55.01
Weekday 3	\$54.03	\$54.19	\$56.20	\$59.10	\$56.64	\$55.53
Weekend 1	\$53.86	\$54.02	\$56.03	\$58.93	\$56.47	\$55.35
Weekend 2	\$54.55	\$54.71	\$56.72	\$59.62	\$57.16	\$56.05
Weekend 3	\$55.07	\$55.23	\$57.24	\$60.14	\$57.68	\$56.56

(b) Licensed Practical Nurse (LPN) – Nursing Facility

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$45.12	\$45.49	\$46.51	\$49.21	\$46.19	\$48.35
Weekday 2	\$46.67	\$47.05	\$48.07	\$50.77	\$47.74	\$49.90
Weekday 3	\$47.19	\$47.56	\$48.59	\$51.28	\$48.26	\$50.42
Weekend 1	\$47.02	\$47.39	\$48.41	\$51.11	\$48.08	\$50.24
Weekend 2	\$47.71	\$48.08	\$49.10	\$51.80	\$48.78	\$50.94
Weekend 3	\$48.23	\$48.60	\$49.62	\$52.32	\$49.30	\$51.45

(c) Certified Nurse Aide (CNA) – Nursing Facility

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$23.39	\$24.18	\$24.16	\$25.16	\$24.24	\$25.04
Weekday 2	\$24.42	\$25.22	\$25.20	\$26.20	\$25.28	\$26.07
Weekday 3	\$24.42	\$25.22	\$25.20	\$26.20	\$25.28	\$26.07
Weekend 1	\$24.42	\$25.22	\$25.20	\$26.20	\$25.28	\$26.07
Weekend 2	\$25.20	\$26.00	\$25.97	\$26.97	\$26.05	\$26.85
Weekend 3	\$25.46	\$26.26	\$26.23	\$27.23	\$26.31	\$27.11

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(3) Maximum Prices, Hospitals.

(a) Registered Nurse (RN) - Hospital

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$75.75	\$78.69	\$78.12	\$81.09	\$78.50	\$79.89
Weekday 2	\$79.27	\$82.22	\$81.65	\$84.62	\$82.03	\$83.41
Weekday 3	\$81.63	\$84.57	\$84.00	\$86.97	\$84.38	\$85.76
Weekend 1	\$78.98	\$81.92	\$81.35	\$84.32	\$81.74	\$83.12
Weekend 2	\$81.61	\$84.56	\$83.98	\$86.95	\$84.37	\$85.75
Weekend 3	\$83.84	\$86.79	\$86.22	\$89.19	\$86.60	\$87.98

(b) Registered Nurse Specialist (RN-Specialist) - Hospital

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$80.72	\$83.71	\$84.93	\$88.21	\$83.91	\$87.32
Weekday 2	\$84.04	\$87.03	\$88.25	\$91.53	\$87.23	\$90.64
Weekday 3	\$86.60	\$89.59	\$90.81	\$94.09	\$89.80	\$93.20
Weekend 1	\$83.77	\$86.76	\$87.99	\$91.26	\$86.97	\$90.38
Weekend 2	\$86.48	\$89.48	\$90.70	\$93.97	\$89.687	\$93.09
Weekend 3	\$88.84	\$91.83	\$93.05	\$96.33	\$92.03	\$95.44

(c) Licensed Practical Nurse (LPN) - Hospital

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$51.66	\$51.25	\$52.60	\$52.55	\$53.29	\$51.70
Weekday 2	\$54.64	\$54.23	\$55.58	\$55.53	\$56.27	\$54.68
Weekday 3	\$56.72	\$56.31	\$57.66	\$57.61	\$58.35	\$56.76
Weekend 1	\$54.38	\$53.97	\$55.33	\$55.27	\$56.01	\$54.42
Weekend 2	\$56.78	\$56.36	\$57.72	\$57.66	\$58.40	\$56.81
Weekend 3	\$58.81	\$58.39	\$59.75	\$59.70	\$60.44	\$58.84

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(d) Certified Nurse Aide (CNA) - Hospital

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$28.98	\$27.73	\$28.48	\$29.16	\$29.03	\$29.56
Weekday 2	\$31.44	\$30.19	\$30.94	\$31.62	\$31.49	\$32.02
Weekday 3	\$33.08	\$31.83	\$32.58	\$33.27	\$33.13	\$33.66
Weekend 1	\$31.37	\$30.12	\$30.87	\$31.56	\$31.42	\$31.95
Weekend 2	\$33.34	\$32.08	\$32.84	\$33.52	\$33.39	\$33.92
Weekend 3	\$35.02	\$33.77	\$34.52	\$35.20	\$35.07	\$35.60

45.04: General Rate Provisions

- (1) The rates determined in accordance with 114.3 CMR 45.00 are full compensation for temporary nursing services rendered to a Nursing Facility or Hospital, including any related administrative or supervising duties provided by the Agency in connection with patient care.
- (2) An Agency may charge a Nursing Facility or Hospital less than the rate determined by this regulation.
- (3) An Agency may not bill, receive payments, or propose to do business with a Nursing Facility or Hospital at a rate greater than the rate established by the Division. If an Agency violates this requirement, the Division may notify the Department to suspend or revoke the Agency's registration in accordance with the provisions of 105 CMR 157.000; or (b) request that the Attorney General bring an action to restrain or prevent the Agency from operating.

45.05: Reporting Requirements

- (1) Temporary Nursing Service Cost Report. Each Agency must complete and file a Temporary Nursing Service Cost Report each calendar year.
 - (a) The Division will issue an Administrative Bulletin to inform providers of the issuance of the Cost Report and the due date for filing the Cost Report. Agencies will have a minimum of 45 days notice from the issuance of the Cost Report and the due date.
 - (b) Agencies that employ only Fixed-Term Travel Employees are not required to file a Temporary Nursing Service Cost Report. Such Agencies must file a certified or audited Financial Statement with the Division annually, due no later than the required due date of the Temporary Nursing Service Cost Report.
- (2) Fixed-Term Travel Employee Disclosure Form. Each Agency that provides the services of a Fixed-Term Travel Employee must complete and file this form for all Fixed-Term Travel Employees in its employ who provided these services during the cost report year.
- (3) Additional Information. Each Agency shall make available all records, books and reports relating to its operation including such data and statistics as the Division may from time to time request.
- (4) Extension of Filing Date. The Division may grant a request for an extension of the filing due date for a maximum of 15 calendar days. In order to receive an extension, the Agency must demonstrate exceptional circumstances that prevent the Agency from meeting the deadline; and file the request no later than the filing due date.

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(5) Audit. Agencies are subject to the duties and responsibilities set forth in M.G.L. c.118G, § 8, whether or not receiving payment from a government unit. All information submitted by an Agency is subject to audit. An Agency must maintain supporting documentation sufficient to demonstrate compliance with all provisions of 114.3 CMR 45.00.

(6) Failure to File Information. If an agency fails to file timely and complete information required by the Division, including cost reports and supporting documentation, the Division may reduce the Provider's rates for current services by 15%. The Division will notify the Provider in advance of its intention to impose a rate reduction. The rate will be restored effective on the date the cost report is filed. The Division may also notify the Department and request revocation of such Agency's registration. The Division may also impose fines on any Agency that fails to submit any information required by the Division. Such fine shall be an amount not to exceed \$500.00.

45.06: Transfer of Ownership

All issues related to the transfers of ownership including, but not limited to, merger, acquisition, or name change, shall be governed by the Department regulations set forth in 105 CMR 157.00.

45.07: Severability of Provisions

The provisions of 114.3 CMR 45.00 are hereby declared to be severable. If any such provisions or the application of such provisions to any eligible provider or circumstances shall be held invalid or unconstitutional, such invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions of 114.3 CMR 45.00 or the application of such provisions to eligible providers or circumstances other than those held invalid.

REGULATORY AUTHORITY

114.3 CMR 45.00: M.G.L. c. 118G.

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APPENDIX

Health Service Area 1 Western Massachusetts

ADAMS	HEATH	SAVOY
AGAWAM	HINSDALE	SHEFFIELD
ALFORD	HOLYOKE	SHELBURNE
AMHERST	HUNTINGTON	SHUTESBURY
ASHFIELD	LANESBOROUGH	SOUTH HADLEY
ATHOL	LEE	SOUTHAMPTON
BECKET	LENOX	SOUTHWICK
BELCHERTOWN	LEVERETT	SPRINGFIELD
BERNARDSTON	LEYDEN	STOCKBRIDGE
BLANDFORD	LONGMEADOW	SUNDERLAND
BUCKLAND	LUDLOW	TOLLAND
CHARLEMONT	MIDDLEFIELD	TYRINGHAM
CHESHIRE	MONROE	WARE
CHESTER	MONSON	WARREN
CHESTERFIELD	MONTAGUE	WARWICK
CHICOPEE	MONTEREY	WASHINGTON
CLARKSBURG	MONTGOMERY	WENDELL
COLRAIN	MOUNT WASHINGTON	WEST SPRINGFIELD
CONWAY	NEW ASHFORD	WEST STOCKBRIDGE
CUMMINGTON	NEW MARLBOROUGH	WESTFIELD
DALTON	NEW SALEM	WESTHAMPTON
DEERFIELD	NORTH ADAMS	WHATELEY
EAST LONGMEADOW	NORTHAMPTON	WILBRAHAM
EASTHAMPTON	NORTHFIELD	WILLIAMSBURG
EGREMONT	ORANGE	WILLIAMSTOWN
ERVING	OTIS	WINDSOR
FLORIDA	PALMER	WORTHINGTON
GILL	PELHAM	
GOSHEN	PERU	
GRANBY	PETERSHAM	
GRANVILLE	PHILLIPSTON	
GREAT BARRINGTON	PITTSFIELD	
GREENFIELD	PLAINFIELD	
HADLEY	RICHMOND	
HAMPDEN	ROWE	
HANCOCK	ROYALSTON	
HATFIELD	RUSSELL	
HAWLEY	SANDISFIELD	

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Health Service Area 2 Central Massachusetts

ASHBURNHAM	OAKHAM
ASHBY	OXFORD
AUBURN	PAXTON
AYER	PEPPERELL
BARRE	PRINCETON
BELLINGHAM	ROCHDALE
BERLIN	RUTLAND
BLACKSTONE	SHIRLEY
BOLTON	SHREWSBURY
BOYLSTON	SOUTHBRIDGE
BRIMFIELD	SPENCER
BROOKFIELD	STERLING
CHARLTON	STURBRIDGE
CLINTON	SUTTON
DOUGLAS	TEMPLETON
DUDLEY	TOWNSEND
EAST BROOKFIELD	UPTON
FITCHBURG	UXBRIDGE
FRANKLIN	WALES
GARDNER	WEBSTER
GRAFTON	WEST BOYLSTON
GROTON	WEST BROOKFIELD
HARDWICK	WESTMINSTER
HARVARD	WHITINSVILLE
HOLDEN	WINCHENDON
HOLLAND	WORCESTER
HOPEDALE	
HUBBARDSTON	
LANCASTER	
LEICESTER	
LEOMINSTER	
LUNENBERG	
MEDWAY	
MENDON	
MILFORD	
MILLBURY	
MILLVILLE	
NEW BRAINTREE	
NORTH BROOKFIELD	
NORTHBRIDGE	

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Health Service Area 3 Merrimack Valley

AMESBURY
ANDOVER
BILLERICA
BOXFORD
CHELMSFORD
DRACUT
DUNSTABLE
GEORGETOWN
GROVELAND
HAVERHILL
LAWRENCE
LOWELL
MERRIMAC
METHUEN
NEWBURY
NEWBURYPORT
NORTH ANDOVER
ROWLEY
SALISBURY
TEWKSBURY
TYNGSBOROUGH
WEST NEWBURY
WESTFORD

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Health Service Area 4 Greater Boston

ACTON	NORTHBOROUGH
ARLINGTON	NORWELL
ASHLAND	NORWOOD
BEDFORD	QUINCY
BELMONT	RANDOLPH
BOSTON	REVERE
BOXBOROUGH	ROSLINDALE
BRAINTREE	SCITUATE
BRIGHTON	SHARON
BROOKLINE	SHERBORN
BURLINGTON	SOMERVILLE
CAMBRIDGE	SOUTHBOROUGH
CANTON	STOW
CARLISLE	SUDBURY
CHELSEA	WALPOLE
COHASSET	WALTHAM
CONCORD	WATERTOWN
DEDHAM	WAYLAND
DOVER	WELLESLEY
DORCHESTER	WESTBOROUGH
FOXBOROUGH	WESTON
FRAMINGHAM	WESTWOOD
HINGHAM	WEYMOUTH
HOLBROOK	WILMINGTON
HOLLISTON	WINCHESTER
HOPKINTON	WINTHROP
HUDSON	WOBURN
HULL	WRENTHAM
LEXINGTON	
LINCOLN	
LITTLETON	
MARLBOROUGH	
MAYNARD	
MEDFIELD	
MILLIS	
MILTON	
NATICK	
NEEDHAM	
NEWTON	
NORFOLK	

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Health Service Area 5 Southeastern Massachusetts

ABINGTON	HYANNIS	TRURO
ACUSHNET	KINGSTON	WAREHAM
AQUINNAH	LAKEVILLE	WELLFLEET
ATTLEBORO	MANSFIELD	WEST BRIDGEWATER
AVON	MARION	WEST TISBURY
BARNSTABLE	MARSHFIELD	WEST WAREHAM
BERKLEY	MASHPEE	WESTPORT
BOURNE	MATTAPOISETT	WHITMAN
BREWSTER	MIDDLEBOROUGH	YARMOUTH
BRIDGEWATER	NANTUCKET	
BROCKTON	NEW BEDFORD	
BUZZARDS BAY	NORTH ATTLEBOROUGH	
CARVER	NORTH RAYNHAM	
CHATHAM	NORTON	
CHILMARK	OAK BLUFFS	
DARTMOUTH	ORLEANS	
DENNIS	PEMBROKE	
DIGHTON	PLAINVILLE	
DUXBURY	PLYMOUTH	
EAST BRIDGEWATER	PLYMPTON	
EASTHAM	PROVINCETOWN	
EASTON	RAYNHAM	
EDGARTOWN	REHOBOTH	
FAIRHAVEN	ROCHESTER	
FALL RIVER	ROCKLAND	
FALMOUTH	SANDWICH	
FREETOWN	SEEKONK	
GOSNOLD	SOMERSET	
HALIFAX	STOUGHTON	
HANOVER	SWANSEA	
HANSON	TAUNTON	
HARWICH	TISBURY	

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Health Service Area 6 North Shore

BEVERLY
DANVERS
ESSEX
EVERETT
GLOUCESTER
HAMILTON
IPSWICH
LYNN
LYNNFIELD
MALDEN
MANCHESTER
MARBLEHEAD
MEDFORD
MELROSE
MIDDLETON
NAHANT
NORTH READING
PEABODY
READING
ROCKPORT
SALEM
SAUGUS
STONEHAM
SWAMPSCOTT
TOPSFIELD
WAKEFIELD
WENHAM